

**STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

In the Matter of:)	
)	Docket No. 2007-11
The Proposed Acquisition of Kanawha)	Decision and Order
Insurance Company, a South Carolina)	
Domestic Insurer, by Humana, Inc., Through)	
Its Wholly Owned Subsidiary, HumVM,)	
Inc., a Virginia Corporation)	
_____)	

This matter comes before me pursuant to the Form “A” Statement regarding the Acquisition of Control of or Merger with a Domestic Insurer (“the Form A”) filed by Humana, Inc. (“Humana”) and its wholly owned subsidiary, HumVM, Inc. (“HumVM”) (together, “the Applicants”), in accordance with South Carolina’s Insurance Holding Company Regulatory Act. See S.C. Code Ann. § 38-21-70 (Supp. 2006) and 25A S.C. Code Ann. Reg. 69-14 (Supp. 2006). South Carolina law requires the approval of the Director of Insurance or his designee of any merger or acquisition of control of a South Carolina domestic insurer unless after a public hearing he finds that one of the conditions set forth in S.C. Code Ann. § 38-21-90 exists.

STATEMENT OF THE CASE

The Form A, dated September 18, 2007, as amended on October 19 and October 20, 2007, and the Agreement and Plan of Merger dated September 7, 2007 provided notice of the Applicants’ intent to acquire control of Kanawha Insurance Company (“Kanawha”), a South Carolina domestic insurer. The Applicants propose to acquire all of the issued and outstanding shares of capital stock of Kanawha for \$6.20 per share, or approximately \$188 million. Upon consummation of the acquisition, HumVM will merge into Kanawha and cease to exist.

STATUTORY STANDARD OF REVIEW

S.C. Code Ann. § 38-21-10(2) of the South Carolina Code creates a presumption of control whenever an acquiring entity would directly or indirectly own ten percent or more of the voting securities of a regulated entity. S.C. Code Ann. § 38-21-60 prohibits any person from acquiring control of a domestic insurer without first having filed information required pursuant to the Insurance Holding Company Regulatory Act and having obtained approval for that acquisition from the Director of Insurance or his designee under S.C. Code Ann. § 38-21-90.

S.C. Code Ann. § 38-21-90 of the Insurance Holding Regulatory Company Act specifically requires the approval of the proposed acquisition of control of a South Carolina domestic insurer unless the Director of Insurance or his designee determines, after a public hearing, that:

- (1) After the change of control the domestic insurer is not able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;
- (2) The effect of the merger or other acquisition of control would substantially lessen competition in insurance in this State or tend to create a monopoly. In applying the competitive standard in this provision:
 - (a) The information requirements and standards of Section 38-21-125(C) and (D) apply.

- (b) The merger or other acquisition must not be approved if the Director or his designee finds that at least one of the situations in Section 38-21-125(D) exists.
 - (c) The Director or his designee may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.
- (3) The financial condition of the acquiring party might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders.
 - (4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with a person or to make another material change in its business or corporate structure or management are unfair and unreasonable to the insurer's policyholders and not in the public interest.
 - (5) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it is not in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.
 - (6) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

Therefore, the Applicants must prove by a preponderance of the evidence that those factors do not exist.

FINDINGS OF FACT

Having considered the Form A, as amended, the Agreement and Plan of Merger, and the financial statements of Humana, I find, by a preponderance of the evidence, the following as to the requested approval of the acquisition of Kanawha:

1. A Form A application was filed with the Department on or about September 19, 2007. The application, as amended, complies with the requirements of S.C. Code Ann. § 38-21-70.

2. A hearing is not required.

3. Kanawha is a South Carolina domestic insurer.

4. Humana, Inc. was incorporated in 1964 and is a Delaware corporation. Humana manages health care plans in every state through its subsidiaries. HumVM is a Virginia corporation organized for the purpose of the acquisition and a wholly owned subsidiary of Humana. Upon consummation of the acquisition, HumVM will merge into Kanawha and cease to exist. Post-closing, Humana will be the ultimate parent of Kanawha.

5. The Applicants propose to acquire, directly or indirectly, all of the issued and outstanding stock of Kanawha for a purchase price of \$6.20 per share, or an aggregate of approximately \$188 million cash, to be deposited in a transfer fund for payment to Kanawha's shareholders. This represents the total consideration to be paid by the Applicants pursuant to the terms of the merger agreement. The boards of directors of all interested entities have approved the transaction. Kanawha will continue its operations in South Carolina.

6. Based upon the materials submitted by the Applicant, none of the conditions provided for under S.C. Code Ann. § 38-21-90(A) exist or apply with respect to the proposed acquisition.

7. The Applicants represented that Kanawha will continue to comply with all requirements for licensure.

9. The Applicants assert in the Form A that they have no present plans to liquidate Kanawha or to sell its assets to any person. The Form A also states that the Applicants do not have any plans to cause Kanawha to merge or consolidate with or transfer any of its assets to any other company. The directors of Kanawha will be Michael B. McAllister, James. H. Bloem, and James E. Murray. The Applicants state that some combination of the current HumVM and Kanawha officers will form Kanawha's executive management team. The current HumVM officers are Michael B. McCallister, president; James H. Bloem, senior vice president, chief financial officer, and treasurer; Thomas J. Liston, senior vice president; George G. Bauernfeind, vice president; Gerald L. Ganoni, vice president; Kathleen Pellegrino, vice president and assistant secretary; Ralph M. Wilson, vice president; and Joan O. Lenahan, vice president and secretary. The current Kanawha officers are Stanley D. Johnson, chairman and chief executive officer; R. Dale Vaughan, president and chief operating officer; Robert E. Matthews, executive vice president, chief financial officer, and treasurer; Peter V. Susi, executive vice president and chief actuary; Alfred L. Ferguson, senior vice president, voluntary underwriting and compliance; Thomas D. Sass, senior vice president, risk management and underwriting; Thomas J. Gibb, senior vice president, marketing; James E. Nelson, secretary; and Russell Piepenbring, vice president, claims and customer service.

10. The Applicants are financially sound. Consummation of the Agreement will not reduce the security of, or the service to be rendered to, any policyholders of Kanawha, nor will the financial condition of the Applicants jeopardize the financial stability of Kanawha or prejudice the interests of its policyholders or the interests of any remaining security holders who are unaffiliated with the Applicants. The Applicants have no plans to declare any extraordinary dividends for Kanawha.

11. The biographical affidavits provided for the executive officers and directors of the Applicants were included in the Form A. That information indicates that the Applicants' proposed management team has management experience and further indicates that those individuals do not have a history of criminal convictions.

CONCLUSIONS OF LAW

I have considered the statutory requirements for approval of a change of control in accordance with the applicable provisions of the South Carolina Code and make the following conclusions of law:

1. I have jurisdiction over the parties and the subject matter pursuant to the provisions of S.C. Code Ann. §§ 38-21-60, 38-21-70, S.C. Code Ann. Reg. 69-31 and other pertinent provisions of the South Carolina Insurance Code;

2. Upon completion of the proposed acquisition, Kanawha will continue to be able to satisfy the requirements for the issuance of a license as required by § 38-21-90 (A)(1).

3. This acquisition will not substantially lessen competition or create a monopoly, which is prohibited by § 38-21-90 (A)(2).

4. The Applicants' financial condition will not jeopardize the financial stability of Kanawha or prejudice the interest of its policyholders, pursuant to the provisions of § 38-21-90 (A)(3).

5. The transaction is neither unreasonable for policyholders nor contrary to the public interest, pursuant to the provisions of § 38-21-90(A)(4).

6. The Form A indicates that the Applicants will bring some experience and expertise to the transaction. It also appears that the conditions of § 38-21-90(A)(5) will not occur because the experience and integrity of the persons who would control the operation of Kanawha are such that it would be in the interest of the policyholders of Kanawha and the public to permit the acquisition.

7. The proposed acquisition is not likely to be hazardous to those buying insurance as prohibited by § 38-21-90(A)(6). Any existing certificates of coverage will continue in force and effect.

CONCLUSION

In view of the foregoing findings of fact and conclusions of law, the criteria established under S.C. Code Ann. § 38-21-90 for approval of an acquisition of control or merger of a domestic insurer have been met. Accordingly, it is ordered that the Form A application to acquire direct control of Kanawha is APPROVED subject to the following conditions. The Applicant must:

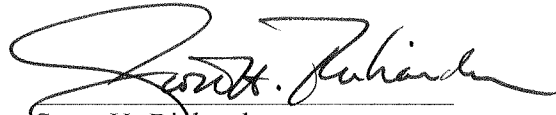
1. Secure the approval of any other regulatory entities by making any required state and federal filings; and

2. Comply with all applicable provisions of South Carolina law to maintain the domestic licensure of Kanawha.

3. Ensure that Kanawha has sufficient capital at all times to maintain a minimum of 250% Authorized Control Level for Risk-Based Capital.

All documents submitted in the Application and in response to requests of the Department which have been marked "Trade Secret: Confidential and Exempt" shall be provided confidential treatment pursuant to S.C. Code Ann. §§ 38-21-290 and 30-4-40.

IT IS SO ORDERED.



Scott H. Richardson
Director of Insurance

Columbia, South Carolina

November 26, 2007